Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
Lifeline and Link Up	)	WC Docket No. 03-109
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
Advancing Broadband Availability Through Digital Literacy Training	)	WC Docket No. 12-23

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COMMENTS OF METROPCS COMMUNICATIONS, INC.

MetroPCS Communications, Inc. ("MetroPCS"),[1] by its attorneys, hereby respectfully submits these comments in response to the Lifeline *Further Notice of Proposed Rulemaking* ("*FNPRM*").[2] MetroPCS applauds the Commission on the actions it already has undertaken to improve the Lifeline program and to reduce fraud, waste, and abuse in the program. MetroPCS also commends the Commission for seeking input on the alternative proposals advanced by

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[1] For purposes of these Comments, the term "MetroPCS" refers collectively to MetroPCS Communications, Inc. and all of its FCC-licensed subsidiaries.

[2] *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 11-42, 03-109, 12-23, CC Docket No. 96-45, FCC 12-11 (rel. Feb. 6, 2012). Hereinafter, the *Report and Order* portion of the action is referred to as the "*Order*" and the *Further Notice* portion is referred to as the "*FNPRM.*"

MetroPCS to the current carrier centric system. These comments focus solely on the questions asked by the Commission with respect to the alternative voucher program proposed by MetroPCS.[3] The following is respectfully shown:

I. INTRODUCTION AND SUMMARY

In the *Order* accompanying the *FNPRM*, the Commission adopted significant reforms for the Lifeline program ("Lifeline" or the "Program") in an effort to "eliminate waste and inefficiency, increase accountability, and transition the Fund from supporting standalone telephone service to broadband."[4] MetroPCS applauds the Commission's efforts and believes that the reforms will help to curb some of the abuses of the current system. Notably, these are some of the objectives that MetroPCS sought to promote with its voucher proposal. However, the Lifeline program still operates under a carrier centric model which limits customer choice. A voucher program, such as that advanced by MetroPCS, would give the support <u>directly</u> to qualifying end-users ("Eligibles") rather than to carriers. These qualified recipients would then be able to use the vouchers to purchase voice and broadband services from their carrier of choice. Carriers would use the vouchers to take credits against their future Universal Service Fund ("USF") payment obligations. This approach would further eliminate waste from the program because it will be easier to avoid duplicate payments when support goes directly to the eligible end users rather than being funneled through a third party (the carrier) and would promote competition by allowing the voucher to be used for <u>any</u> service, including handheld voice and data broadband services. This would allow Lifeline customers to enjoy the full

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[3] *See FNPRM*, at ¶ 514.

[4] *Order*, at ¶ 2.

competition that more fortunate subscribers (*i.e.* those not participating in the Lifeline program) currently enjoy.

MetroPCS also anticipates that certain governmental agencies that oversee and manage key public assistance programs that establish eligibility for Lifeline support can and should play a significant role in distributing vouchers to Eligibles, which will reduce the prospects for fraud and will promote education of the program, ensuring that all who need Lifeline are aware of it and participate. Inefficiency is reduced because the physical collection and distribution of Lifeline funds are eliminated through the voucher and USF credit process. Accountability also is increased because the actual recipients of the service are the ones responsible for establishing their eligibility for a voucher, rather than imposing that burden on a third party service provider who has an incentive to accept all requestors and has little incentive to monitor systems to eliminate fraud, waste and abuse.

The transition to broadband services also will be promoted by a voucher program because, under the MetroPCS proposal, vouchers could be honored by a broader cross-section of serving carriers, thus improving the prospects of end users being able to access advanced services which are essential to them. As the Commission knows, a significant portion of eligible recipients currently receive their broadband services predominantly or exclusively from wireless providers. Allowing these eligible recipients to use the voucher for the communications services they need will allow them to not be left behind in the digital revolution, and further advance the Commission's stated goals in "promoting ubiquitous deployment of, and consumer access to, both traditional voice calling capabilities and modern broadband services."[5]

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[5] *Order*, at ¶ 60.

The adoption of MetroPCS' proposal will result in significant public interest benefits such as lower prices, greater innovation, and increased competition, which will provide more options for consumers. In order to ensure that these benefits are received by the public, MetroPCS maintains that the Commission may rely on its ample statutory authority to adopt MetroPCS' proposed voucher program. The Commission may permit a broader cross-section of telecommunications providers to participate in the Lifeline program under Section 254(j) as well as under its broad Title III authority.

II. DESPITE THE REFORM, THE LIFELINE PROGRAM STILL IMPOSES A HEAVY BURDEN ON ETCS

Notably, MetroPCS is not a Lifeline participant at this time and does not hold an ETC designation. Consequently, MetroPCS' immediate interest in commenting earlier in the reform proceeding, and continuing its advocacy now, is (1) to help the Commission adopt reforms that will control the cost of the Lifeline program so that the burden on MetroPCS (and others) as contributors to the Lifeline fund will be limited to the extent possible; (2) to curb the unfair competitive advantage that some carriers are enjoying by getting paid duplicative Lifeline support for a single household, and (3) to promote competition for Lifeline dollars to the benefit of the ultimate recipient – the user.

One reason the Commission should give serious consideration to the voucher program is because the latest reforms, though obviously well-intentioned, have come under attack by carriers who are convinced that they place too great a burden on carriers who are seeking to comply.[6] MetroPCS is particularly sensitive to these concerns. MetroPCS did consider pursuing

[6] MetroPCS does note that some participants in the program have expressed concern about the burden that information collection, verification and certification procedures place on carriers.

ETC status in the past, but was dissuaded in part because of the ongoing burdens associated with securing and maintaining ETC status under the current regime. The MetroPCS service plan is premised on providing an excellent value proposition to customers and, to do so, it must maintain a low cost structure. MetroPCS was concerned that the regulatory obligations associated with an ETC would impose too many costs on it and the potential liability for a failure in regulatory process.

In many respects, the Lifeline reform proposal increases the burdens on carriers as follows:

- ETCs are obligated to identify and verify the permanent address of each participating consumer. *Order*, paras. 85-88.[7]

- ETCs will be required to certify their compliance with the rules on an annual Lifeline ETC certification. *Order*, paras. 125, 129.

- ETCs are required to gather and submit extensive information to detect duplicative support including contact information, eligibility information, social security number and birthdate information, and the nature of the support. *Order*, paras. 191-194.[8]

- ETCs are required to make extensive disclosures in marketing materials. *Order*, paras. 275-277.

See Matthew S. Schwartz, *Lifeline Reporting Burdens May Prompt More Telcos to Seek OMB Override of FCC*, COMM. DAILY, Mar. 28, 2012, at 6.

[7] This may be particularly problematic for those Eligibles who are homeless or are between permanent addresses – such as women needing escape from abusive partners.

[8] Social Security number fraud is a difficult problem: for years, the federal government has been trying to eliminate illegal aliens from using false Social Security Numbers and has been largely unsuccessful.

The bottom line is that the potential burdens in the past that caused MetroPCS to eschew ETC status have become even greater as the Commission has taken appropriate steps to reduce the prospects for fraud, waste and abuse in the Lifeline program.

In addition, there was another aspect of the Lifeline program that served to dissuade MetroPCS from participating. Because the cost to the government of the Lifeline program was careening out of control and the program was in the process of being overhauled, MetroPCS was disinclined to undertake a major Lifeline initiative only to have the governing rules change dramatically once it became eligible to participate in the program.[9] This too remains a matter of significant concern. The *Order* contains an estimate that the adopted reforms will cause the Lifeline program to be at or below its current size by 2014.[10] It is, however, not clear what will happen if the program does not achieve these savings. Potentially, new program participants could once again be faced with a major overhaul of Lifeline regulations after they have taken significant steps to become more involved in the program.

III. THE COMMISSION'S ADOPTION OF METROPCS' VOUCHER PROPOSAL WILL RESULT IN SIGNIFICANT PUBLIC INTEREST BENEFITS

MetroPCS strongly recommends that the Commission recast the Lifeline program by implementing a customer voucher system.[11] Under this proposal, the Program's provider-paid model would be transformed into a model where payments are made directly to the consumer

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[9] Seeking and receiving ETC status can take six-to-nine months or more and requires in certain instances state designation and in others, FCC designation.

[10] *Order,* at ¶ 358.

[11] *See* MetroPCS *Ex Parte* Communication, WC Docket Nos. 03-109, 11-42, CC Docket No. 96-45 (filed Jan. 25, 2012) ("*MetroPCS January Ex Parte*"); MetroPCS *Ex Parte* Communication, WC Docket Nos. 03-109, 11-42, CC Docket No. 96-45 (filed Dec. 27, 2011) ("*MetroPCS December Ex Parte*").

through a voucher system. Ideally, the ETC certification program also would be revamped so that Lifeline vouchers could be used by the eligible recipient to procure communications services from any communications provider offering such service to the public.

MetroPCS' proposed voucher system can be integrated in some respects into the recent Commission reforms to the consumer eligibility and enrollment process.[12] For example, the *Order* encourages the use of "coordinated enrollment," and MetroPCS believes that this method would also assist with a smooth implementation of the voucher program.[13] As the Commission notes, many states "currently engage in or are implementing coordinated enrollment."[14] Through this coordinated enrollment process, the states are typically responsible for notifying the ETCs of the eligible customers, or updating databases of their own. It would be a simple additional step for the involved state agencies to issue vouchers to eligible individuals who qualified as a result of their eligibility for other forms of public assistance. Eligibles would then be able to take the voucher to any participating carrier and use it to buy any program the communications carrier offers. Participating communications providers receiving the vouchers could then perform an additional confirmation of the consumers' eligibility and enrollment in the program through the National Database, when presented with a Lifeline voucher.[15] A further benefit is that the

[12] *See Order*, Section VI.

[13] Indeed, MetroPCS has consistently supported forms of coordinated enrollment in suggesting that the voucher system should be integrated with other applicable programs that may confirm eligibility of recipients, such as food stamp programs. *See MetroPCS December Ex Parte* at 6.

[14] *Order*, at ¶ 175.

[15] Telecommunications carriers could still be required to perform eligibility functions for persons qualifying under the low-income threshold (*i.e.*, income at or below 135% of the Federal Poverty Guideline) but the burden would be lessened by the offload of eligibility testing of those participating in a qualified assistance program.

voucher can be used to reduce a carrier's contribution, rather than having the carrier wait for payment. This is similar to the way USF benefits are distributed to schools and libraries.

By providing consumers with Lifeline payments directly, MetroPCS' proposal ultimately allows the consumer to decide how and on what communications service to spend the payment. Such a model would convert the program from a carrier- or government-driven program, to one that is driven by the customers themselves. The voucher-based program will provide low-income consumers with a choice – something they do not have under the current structure of the Lifeline program. Allowing for greater consumer choice will, in turn, increase competition by driving down prices and encouraging carriers to offer greater services and functionality to low-income consumers. The voucher program will ensure that this segment of the American population – which has largely been bypassed by the telecommunications revolution – will have the option to obtain innovative and advanced telecommunications services, assisting in bridging the digital divide.

IV. THE COMMISSION HAS APPROPRIATE LEGAL AUTHORITY TO ADOPT A VOUCHER PROGRAM

The Commission recognizes that Lifeline "has been instrumental in increasing the availability of quality voice service to low-income consumers" as well as "increas[ing] the penetration rate of voice service by keeping low-income consumers connected to the network."[16] In order to continue to obtain such benefits, the Commission must allow for less stringent eligibility hurdles by permitting <u>all</u> communications carriers whose services are desired by an eligible voucher holder to participate in the Lifeline program. Further, the Commission should allow the voucher program to move away from permitting Lifeline support to only apply to a

[16] *Order*, at ¶¶ 15, 16.

limited category of services specifically identified as Lifeline services. The current approach restricts the services available to Eligibles, and requires regulators to determine whether a specific service option is included. By going to a voucher system, the regulators will no longer have to be "picking winners and losers," and thereby substituting government decision-making for individual consumer choice.

Numerous parties have recognized and argued for a reform of the significant hurdles and burdens that carriers must undergo to be deemed an "ETC."[17] Before the most recent reform, even if a carrier desired to be a Lifeline-only ETC, there was still an arduous process to obtain the forbearance that was required. The *Order* acknowledged these burdens and adopted provisions that allowed the Commission to forbear from applying the Act's facilities requirement to all telecommunications carriers that sought to be Lifeline-only ETCs.[18] While MetroPCS applauds the Commission's recognition of the numerous hurdles telecommunications carriers face, it urges the Commission to go one step further and allow <u>all</u> communications providers whose communications services are desired by an eligible voucher holder to be exempt from the Section 214 requirements and participate freely in the Lifeline program. The Commission may take this action pursuant to Sections 214 and 254. Although Section 214 dictates that "[a] common carrier designated as an eligible telecommunications carrier . . . shall be eligible to receive universal service support in accordance with section 254,"[19] Section 254(j) provides that "[n]othing in this section shall affect the collection, distribution, or administration of the Lifeline

[17] *See e.g.,* Comments of ViaSat, Inc. in WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, 7-8 (filed Apr. 21, 2011); Comments of Consumer Cellular in WC Docket Nos. 11-42, 03-019, CC Docket No. 96-45, 23 (filed Apr. 21, 2011); Letter from Jamie M. Tan, AT&T, to Marlene Dortch, Secretary, FCC, WC Docket No. 03-109, GN Docket Nos. 09-51, 09-47, 09-137 (filed Dec. 22, 2009).

[18] *Order,* at ¶ 368.

[19] 47 U.S.C. § 214(e)(1).

Assistance Program . . . ."[20] In fact, the Commission has previously stated that it "believe[s] [it] has the authority under sections 1, 4(i), 201, 205, and 254 to extend Lifeline to *include carriers other than eligible telecommunications carriers.*"[21] Indeed, it has already done so, by allowing for "Lifeline-only ETCs" as well as permitting non-telecommunications carriers to receive Lifeline support for non-telecommunications services to schools and libraries, for the public benefit.[22] Allowing all telecommunications carriers to provide services under the Lifeline program[23] will further increase such benefits.[24]

Furthermore, the Commission may also look to its authority under Section 332 of the Act[25] to implement MetroPCS' proposed voucher program with respect to non-ETC commercial

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[20] 47 U.S.C. § 254(j).

[21] *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶ 369 (1997) ("*1997 Report and Order*") (emphasis added). Ultimately the FCC declined to exercise this authority, and further (contradictorily) noted that "section 254(e) allows universal service support to be provided only to carriers deemed eligible pursuant to section 214(e)."

[22] *See 1997 Report and Order*, at ¶ 590. In doing so, the Commission relies on its authority in Sections 254(h)(2)(A) and 4(i) of the Act.

[23] MetroPCS recognizes that the Commission confirms its stance on requiring that providers be designated as eligible to receive universal service support in the *USF/ICC Transformation Order*, however emphasizes that the MetroPCS proposal *only* applies to Lifeline, and therefore, carriers would still need to satisfy the Section 214 requirements for other forms of federal support from the Universal Service Fund. *See In the Matter of Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90 et al., FCC 11-161, ¶ 73 (rel. Nov. 18, 2011) ("*USF/ICC Transformation Order*").

[24] Another approach the Commission could take is to simplify the process of designating an ETC by implementing the same approach used to issue licenses. The Commission could promulgate a simple form which requires basic information and grant the ETC status upon the filing of the form subject to termination if the carrier did not fill out the form properly. The Commission could also require attestations to prevent bad actors from participating in the program. This voucher system would let the marketplace decide and eliminate the need for the government to determine whether the services offered is acceptable. Only the information necessary to identify the carrier, and the way in which it is licensed to provide service and devices would be required.

[25] 47 U.S.C. § 332.

mobile radio service ("CMRS") providers. Section 332 has been interpreted by the Courts to give the Commission broad authority over wireless carriers. And, this statutory specifically empowers the Commission to exempt CMRS carriers from such provisions of Title II "as the Commission may specify by regulation as inapplicable. . . ."[26] This accords the Commission great latitude to exempt CMRS carriers from the ETC certification pursuant to Sections 214(e) and 254 to the extent necessary to implement a voucher program.

V. CONCLUSION

MetroPCS urges the Commission to integrate its proposed voucher program with the recent reforms of the Lifeline program. This proposal replaces the current carrier-paid system with a voucher system that directly delivers Lifeline payments to the consumer, gives eligible participants the benefits of competition and all services in the market, and permits all communications carriers, not just those designated as ETCs, to participate in the Lifeline program as well. Such changes to the Program will allow for greater competition in a segment of the industry that has largely been skipped by the technological revolution. Increasing competition within the Lifeline program will provide consumer participants with the opportunity to have a choice, for the first time, in their Lifeline provider. Other benefits for the industry and consumers alike include lower prices and greater, more advanced, services. Finally, MetroPCS submits that the Commission has ample authority to permit non-ETC telecommunications providers to participate in the Lifeline program under Section 254(j) as well as under its broad Title III authority.

[26] 47 U.S.C. § 332(c)(1)(A).

Respectfully submitted,

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